

## **REMARKS**

Claims 1-66 are pending in the present application. Claims 1-66 are rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of the amendments and remarks below.

### **The Invention**

The present invention provides novel condensation drug aerosols and methods for producing such aerosols. These condensations aerosols have little or no pyrolysis degradation products. The unique method for generating or producing such aerosols employs rapid vaporization of the drug to minimize drug degradation during the process. These vaporized drugs are subsequently condensed to form particles of a desirable particle size for inhalation. These aerosols are especially useful in the treatment of acute or chronic conditions wherein rapid onset of treatment is desirable.

### **The Amendments to the Claims**

Without prejudice to the Applicants' rights to present claims of equal scope in a timely filed continuing application, to expedite prosecution and issuance of the application, the Applicants have amended Claims 1-3 and 34-36 and cancelled Claims 4-33 and 37-66. The Applicants also have presented new Claims 67-122. The amended claims and the new claims are supported by the specification (see below for examples of such support).

<b>Claim</b>	<b>Examples of Support in the Specification</b>
Claim 1	Paragraphs 0004, 0007, 0018, 0020; Example 1
Claim 2	Paragraph 0037
Claim 3	Paragraph 0037
Claim 34	Paragraphs 0004, 0007, 0018, 0020; Example 1
Claim 35	Paragraph 0037
Claim 36	Paragraph 0037
Claim 67	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0018
Claim 68	Paragraph 0018
Claim 69	As recited above for Claim 67
Claim 70	Paragraph 0007
Claim 71	Paragraph 0007
Claim 72	Paragraph 0095
Claim 73	Paragraph 0010
Claim 74	Paragraph 0011
Claim 75	Paragraph 0012
Claim 76	Paragraph 0013
Claim 77	Paragraph 0014
Claim 78	Paragraph 0014

<b>Claim</b>	<b>Examples of Support in the Specification</b>
Claim 79	Paragraph 0005
Claim 80	Paragraph 0015
Claim 81	Paragraph 0015
Claim 82	Paragraph 0015
Claim 83	Paragraph 0016
Claim 84	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0018
Claim 85	Paragraph 0018
Claim 86	As recited above for Claim 84
Claim 87	Paragraph 0007
Claim 88	Paragraph 0007
Claim 89	Paragraph 0095
Claim 90	Paragraph 0010
Claim 91	Paragraph 0011
Claim 92	Paragraph 0012
Claim 93	Paragraph 0013
Claim 94	Paragraph 0014
Claim 95	Paragraph 0014
Claim 96	Paragraph 0005
Claim 97	Paragraph 0015
Claim 98	Paragraph 0015
Claim 99	Paragraph 0015
Claim 100	Paragraph 0016
Claim 101	As recited above for Claim 1 and Paragraph 0010
Claim 102	As recited above for Claim 1 and Paragraph 0011
Claim 103	As recited above for Claim 1 and Paragraph 0012
Claim 104	As recited above for Claim 1 and Paragraph 0013
Claim 105	As recited above for Claim 1 and Paragraph 0014
Claim 106	As recited above for Claim 1 and Paragraph 0014
Claim 107	As recited above for Claim 1 and Paragraph 0005
Claim 108	As recited above for Claim 1 and Paragraph 0015
Claim 109	As recited above for Claim 1 and Paragraph 0015
Claim 110	As recited above for Claim 1 and Paragraph 0015
Claim 111	As recited above for Claim 1 and Paragraph 0016
Claim 112	As recited above for Claim 34 and Paragraph 0010
Claim 113	As recited above for Claim 34 and Paragraph 0011
Claim 114	As recited above for Claim 34 and Paragraph 0012
Claim 115	As recited above for Claim 34 and Paragraph 0013
Claim 116	As recited above for Claim 34 and Paragraph 0014
Claim 117	As recited above for Claim 34 and Paragraph 0014
Claim 118	As recited above for Claim 34 and Paragraph 0005
Claim 119	As recited above for Claim 34 and Paragraph 0015
Claim 120	As recited above for Claim 34 and Paragraph 0015
Claim 121	As recited above for Claim 34 and Paragraph 0015
Claim 122	As recited above for Claim 34 and Paragraph 0016

The amendments to the claims do not introduce new matter. Applicants respectfully submit that the amendments to the claims put the case in condition for allowance. The Examiner is respectfully requested to enter the amendments to the claims and allow all amended claims.

### **Double Patenting**

Claims 1-66 were rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims 1-5 of U.S. Patent No. 6,814,955 B2, as these claims are “either anticipated by, or would have been obvious over, the reference claims.” Office Action at 2-3. Also, Claims 1-66 were provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 18-28 of copending Application No. 10/769,046 and over claims 1-82 of copending Application No. 10/718,982. *Id.* at 3-4.

Claims 16, 22, 28, 49, 55 and 61 were rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims 1-2 and 9-11 of U.S. Patent No. 6,737,042 B2, as these claims are “either anticipated by, or would have been obvious over, the reference claims.” *Id.* at 4. Also, Claims 16, 22, 28, 49, 55 and 61 were provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application Nos. 10/768,205 and 10/749,783. *Id.* at 5.

Applicants have filed with this response Terminal Disclaimers with regard to U.S. Patent Nos. 6,814,955 B2 and 6,737,042 B2 and copending Application Nos. 10/769,046, 10/718,982, 10/768,205 and 10/749,783. Applicants believe that this addresses the Examiner’s concerns and respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of these actions and remarks.

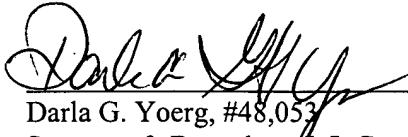
### **Conclusion**

The Applicants appreciate the Examiner’s careful and thorough review of the application and submit that the Examiner’s concerns have been addressed by the amendments and remarks above. The Applicants accordingly request the Examiner to withdraw all rejections and allow the application. In the event the Examiner believes a telephonic discussion would expedite allowance or help to resolve outstanding issues, prosecution of the application, then the Examiner is invited to call the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned

hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,



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